IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	Case No. 1:09CR175
ANGELINA LAZAR,	)	
	)	
Defendant	)	

GOVERNMENT'S RESPONSE TO DEFENDANT'S
MOTION TO REVOKE DETENTION ORDER

The United States of America, by and through its attorneys, Dana J. Boente, United States Attorney for the Eastern District of Virginia, and Uzo E. Asonye, Assistant United States Attorney, respectfully files this response in opposition to defendant Angelina Lazar's motion to revoke detention order, which represents her third attempt to be released pending trial. (Doc. No. 19).

After two magistrate judges – in separate jurisdictions – held detention hearings and subsequently ordered the defendant detained pending trial in light of, among other things, her virtually non-existent ties to the United States, substantial ties outside of the United States, questionable representations about employment, and inability to assure the defendant's appearance in court, Lazar now asks this court to revoke detention relying on essentially the same information rejected by both magistrate judges. As discussed below, the defendant represents a considerable risk of flight. Notably, if the defendant is released, she will likely be taken into custody by immigration officials and removed from the country. There is no condition or combination of conditions of release that will reasonably assure the defendant's appearance as required. Consequently, the government urges the Court to uphold the orders of both magistrate judges and reject defendant's motion to revoke the detention order.

PROCEDURAL SUMMARY

On April 9, 2009, Angelina Lazar was indicted by a federal grand jury in the Eastern District of Virginia on four counts of wire fraud in violation of Title 18 United States Code Section 1343. The Indictment alleges that between 2005 and 2007 the defendant, through her company Charismatic Exchange, solicited investments in foreign currency from individuals throughout the United States using materially false representations regarding the use, return, and risk of the investment. According to the indictment, as part of her fraudulent solicitation, the defendant falsely represented that she was so successful at foreign currency trading that she could guarantee for the investor a monthly return of approximately 20 percent or more. Furthermore, the defendant represented to investors that she had and used a special software program that greatly enhanced her ability to successfully trade foreign currencies, when in fact the defendant only possessed and used a demonstration copy of the software, which reflected simulated trades, as opposed to actual trades. In reality, the defendant had no intention to use investors' funds for currency trading and in fact used the funds for personal or office expenses or to pay off earlier investors. A number of investors received little to no return or lost their entire principal investment. When Lazar was indicted, an arrest warrant was issued for her arrest.

On or about February 8, 2017, the defendant, who is a citizen of Canada, attempted to gain entry into the United States via the Detroit Canada Tunnel. Law enforcement officials at the border in the Eastern District of Michigan identified the outstanding warrant for the defendant's arrest and she was taken into federal custody. The same day, a Rule 5 transfer hearing was held for the defendant in the United States District Court for the Eastern District of Michigan. See United States v. Lazar, 2:17-mj-30056-DUTY (E.D. Mich. Feb. 8, 2017). At the hearing, the government requested the defendant be detained pending trial.

On February 10, 2017, a removal and detention hearing was held in the Eastern District of Michigan before U.S. Magistrate Judge Mona Majzoub. The defendant had not retained counsel and was represented by the Office of the Federal Public Defender. At the hearing, the government proffered information about the defendant's significant ties to foreign countries, significant foreign travel, limited ties to the United States and the Eastern District of Virginia, questionable employment, and lack of credibility. At the conclusion of the hearing, Judge Majzoub issued an order of detention pending trial after she determined that no condition or combination of conditions would assure the defendant's appearance in court. See United States v. Lazar, 2:17-mj-30056-DUTY (E.D. Mich. Feb. 8, 2017) (Doc. No. 7). In a written opinion, the court found that a preponderance of the evidence established the defendant was a flight risk because, among other reasons, "her lack of ties to this country, her very recent and strong ties to multiple foreign countries, her lack of stable residence, her lack of verifiable, legitimate employment, and her utter lack of credibility." Id. The defendant was subsequently removed and transported to the Eastern District of Virginia.

On February 28, 2017, an initial appearance for the defendant was held in this district before Magistrate Judge Davis. Judge Davis ordered the defendant detained and scheduled another detention hearing. United States v. Lazar, 1:09CR175 (E.D. Va. Feb. 28, 2017) (Doc. No. 19). On March 7, 2017, an additional detention hearing was held before Magistrate Judge John Anderson to reconsider Magistrate Judge Majzoub's detention order.[1] During the hearing, defense counsel proffered that since the defendant arrived in the Eastern district of Virginia she had established a relationship with a congregation in the area and would have a place to live in Virginia if she was released. (Doc. No. 15). Judge Anderson indicated that information about the defendant's employment and relationship with Nexxus University was already available to,

[1] At the detention hearing, the government advised its position that under relevant rules and caselaw the defendant was not entitled to a second detention hearing before a magistrate judge.

and considered by, Magistrate Judge Majzoub. In any event, Judge Anderson concluded that even with this new information about the congregation and employment, the defendant had "no significant community or family ties to this district." Id. He also agreed that the defendant has "limited ties to the United States, substantial ties outside of the United States, and her employment is, at best, questionable." Accordingly, the defendant was ordered detained pending trial by Judge Anderson. Id.

On March 24, 2017, a status hearing was held before this Court during which defense counsel requested a continuance to obtain a mental evaluation of the defendant in order to determine if she was competent to stand trial. (Doc. No. 17). The Court granted the motion. On April 12, 2017, the defendant filed the instant motion to revoke the detention order claiming that since the detention hearing in this district before Judge Anderson she had developed a relationship with a congregation in the area and would have a place to live in Virginia if she was released. (Doc. No. 19).

On April 14, 2017, the defendant was arraigned and waived speedy trial before this Court. The Court scheduled a hearing for defendant's motion to revoke detention on April 21, 2017, and set trial for September 18, 2017.

STANDARD OF REVIEW

When a party seeks review of a magistrate judge's pretrial detention order, a district court is to conduct an independent and *de novo* review. 18 U.S.C. § 3145(b); United States v. Stewart, 19 Fed. Appx. 46, 48, 2001 WL 1020779, *1 (4th Cir. 2001). However, a district court is not required to hold an additional evidentiary hearing as part of its review, see United States v. Williams, 753 F.2d 329, 331 (4th Cir. 1985); United States v. King, 849 F.2d 485, 489-90 (11th Cir. 1988), and a party is allowed to "present information by proffer or otherwise." 18 U.S.C. § 3142(f).

In determining whether detention of a person is warranted, the court must consider specific factors set forth in 18 U.S.C. § 3142(g). These factors are (1) "the nature and circumstances of the offense charged;" (2) "the weight of the evidence against the person;" (3) "the history and characteristics of the person" including, among other factors, the person's character, family ties, employment, financial resources, past conduct, criminal history, and history concerning appearance at court proceedings; and (4) "the nature and seriousness of the danger to any person or the community that would be posed by the person's release." 18 U.S.C. § 3142(g).

To obtain pretrial detention, the government must prove either (1) that no combination of conditions will reasonably assure the defendant's presence at future court proceedings by a preponderance of the evidence, Stewart, 19 Fed. Appx. at 48, 2001 WL 1020779, *2 (citing United States v. Hazime, 762 F.2d 34, 37 (6th Cir. 1985) and United States v. Medina, 775 F.2d 1398, 1402 (11th Cir. 1985)); or (2) that "no conditions other than detention will reasonably assure the safety of any other person and the community," by clear and convincing evidence. United States v. Simms, 128 Fed. Appx 314, 315, 2005 WL 928550, *1 (4th Cir. 2005).

ARGUMENT

Based on the evidence, the government submits that by a preponderance of the evidence, the Defendant poses a serious risk of flight and that no condition or combination of conditions will reasonably assure the Defendant's appearance in light of the Section 3142(g) factors. The government proffers the following facts and argument below.

A. The Defendant Is Subject To Removal Or Deportation

The defendant is a citizen of Canada. Based on discussion with immigration officials, the government learned that on or about February 8, 2017, the defendant presented driving a car at the Detroit Canada Tunnel. Upon inspection, law enforcement officials discovered an outstanding warrant for the defendant. The defendant was then determined to be inadmissible to the United States as an intending immigrant without proper authorization.

Lazar was subsequently paroled into the United States solely for the purposes of prosecution in the instant case under the outstanding warrant for her arrest. Pursuant to Title 8, United State Code, Section 1182(d)(5), the Secretary of the Department of Homeland Security ("DHS") may, in his discretion, parole any alien applying for admission into the United States. According to immigration officials, a person who has been paroled into the country has not been admitted to the United States, nor have they made an admission under the immigration law. A parolee remains constructively at the border and would be treated as an applicant for admission (thus subject to the exclusion grounds and procedures) whenever the parole ended. The government has been advised by Homeland Security officials that typically when an individual is paroled into the country to resolve pending charges a detainer will be lodged by immigration officials. Accordingly, the government expects that a detainer will be filed for the defendant shortly. In any event, if the Lazar is released, she could be removed from the country by immigration officials since she has not been admitted to the country. Indeed, even if the defendant is released to a third party custodian, she could be taken into the custody of immigration officials and deported. Consequently, nothing could assure her appearance in court.

B. The Defendant Has Significant Ties to Foreign Countries

As Magistrate Judges Majzoub and Anderson found, Lazar has very recent and significant ties to multiple foreign countries. She could easily flee to any of these locations where she has foreign ties. The defendant is a citizen of Canada. On February 8, 2017, during an interview with FBI agents in Michigan, she acknowledged that she travels around the world for business, including to England, United Arab Emirates, Switzerland, and Canada. She also admitted that she was recently a resident of the United Arab Emirates and carried a residency card from that country. In addition, when Lazar was apprehended at the border, she was carrying Ghanaian currency on her person. Indeed, by her own admission, the defendant advised Pre-trial Services in Michigan and Magistrate Judge Majzoub found that Lazar lived in Ghana from September 2009 through January 2015, in Dubai until June 2016, in England until December 2016, then in Serbia until the end of January 2017. See United States v. Lazar, 2:17-mj-30056-DUTY (E.D. Mich. Feb. 8, 2017) (Doc. No. 7). In total, the defendant has recent significant ties to England, United Arab Emirates, Switzerland, Canada, Ghana, and Serbia. In short, the defendant has the ties, experience, and capability to flee to foreign countries.

C. The Defendant Has Limited Ties To The United States

Conversely, the defendant has limited ties to the United States. According to immigration travel records, the defendant has not been admitted in the United States since December 2006 – over a decade ago. Lazar last left the United States in December 2006. After she was indicted in April 2009, the defendant attempted to enter the United States (but was not admitted) once in August 2009, according to immigration records. It is notable that she has not returned since.

In addition to her limited recent travel to this country, the defendant has virtually no ties to the country or the Eastern District of Virginia. The only person in country she claims a connection to, her sister, lives in Indiana. She has claimed no other family in the country or the district. While the defendant claims that she recently established a connection with a local church in this district who is willing to provide her a place to live, as Judge Anderson noted, it "does not change the fact that she has no *significant* community or family ties this to this district." United States v. Lazar, 1:09CR175 (E.D. Va. Feb. 28, 2017) (Doc. No. 19).

Moreover, as of this writing, the defendant has not identified a suitable third party custodian to Pretrial Services. The defendant has merely referenced a church without providing a specific person who would be responsible for the defendant. Pretrial Services has not verified the suitability of this person or their willingness to serve as a third party.

D. The Defendant's Purported Employment Is Dubious

There are numerous reasons not to believe defendant's claimed employment with Nexxus University Partners. *First*, the government has confirmed with immigration officials that the defendant has no legal authorization to work in the United States. This lack of authorization undermines her claim that she is actually employed. But, even if she is employed, she would be working in the United States illegally. *Second*, Pretrial Services in Michigan determined and Magistrate Judge Majzoub found that the defendant "has never earned any money as a result of her alleged employment" and her "mother was not aware of any such employment" even though she lived with her mother after returning from Serbia. United States v. Lazar, 2:17-mj-30056-DUTY (E.D. Mich. Feb. 8, 2017) (Doc. No. 7). *Third*, based on open source information, Nexxus University Partners ("Nexxus") is operated by an individual under investigation by the Securities and Exchange Commission ("SEC"). Nexxus is registered in Belize but operated out of Plano, Texas by Robert Wood. Nexxus claims to operate in the cryptocurrency industry, which is not dissimilar from the foreign currency field in which the defendant previously worked and led to the instant charges. The government has confirmed that Wood's activities in connection with Global Currency Reserve, an entity closely associated with Nexxus, is currently under investigation by the Securities and Exchange Commission. As Judge Anderson noted, Lazar's "employment is, at best, questionable." United States v. Lazar, 1:09CR175 (E.D. Va. Feb. 28, 2017) (Doc. No. 19).

E. The Defendant Is Not Credible

The Court cannot rely on representations from the defendant because she lacks any credibility. The defendant, who changed her last name, is associated with two different U.S.

social security numbers. One of the social security numbers was issued in Minnesota in approximately 1989 under the defendant's prior name, Angela Dragicevic. The other social security number is under the defendant's current name, Angelina Lazar. There is no legitimate reason for the defendant to have two different social security numbers. Moreover, the defendant has provided shifting accounts as to why she entered the United States. At times, she has stated that she was not aware of the outstanding charges while at others she indicated that she knew about the federal grand jury investigation. At the detention hearing, her attorney proffered that Lazar returned to the U.S. for missionary work in the Troy, Michigan area, but later indicated she returned to do training for her job with Nexxus in Texas.

The nature and circumstances of the offense also undermine her credibility. The offense involves allegations that the defendant made numerous false representations about investments to investors and used their funds for personal purposes. Lazar has not returned any funds to investors since at least 2007 despite having admittedly travelled around the globe. In fact, during her interview with FBI agents on February 8, 2017, Lazar confessed that she still owed investors' money, although she falsely stated that she had paid back 80 percent to investors. During the same interview, regarding her current involvement in cryptocurrency, Lazar stated that "crypto currency is like owning your own bank; it's like having your own bank in your back pocket." As a result of these admissions and other highly incredible statements, Magistrate Judge Majzoub ordered Lazar detained because of, among other things, "her utter lack of credibility." United States v. Lazar, 2:17-mj-30056-DUTY (E.D. Mich. Feb. 8, 2017) (Doc. No. 7).

F. The Defendant's Prior Criminal History

Based on the defendant's NCIC report and the Pretrial services report from the Eastern District of Michigan, it appears the defendant also has unresolved criminal charges. As Magistrate Judge Majzoub concluded, the "[d]efendant has an arrest for assault from 2000 on her criminal history record, with an unknown disposition, as well as another law enforcement contact in Washington, D.C. in 2002 which matter was subsequently dismissed."

CONCLUSION

Despite Lazar's motion to revoke detention, very little has changed since her detention hearings before Magistrate Judges Majzoub and Anderson. The Defendant still lacks stable and verifiable employment, a stable residence, a third party custodian, financially responsible sureties, adequate finances, significant community or family ties to this district, and legal status in the United States. Meanwhile, she appears to have engaged in fraud, made prior attempts to evade law enforcement or avoid prosecution, travelled extensively throughout the world, established significant foreign ties, and could be deported if released. Under these circumstances, the government has established by a preponderance of the evidence that no condition or combination of conditions of release will reasonably assure her appearance in court as required. Consequently, for the reasons above, the Court should deny defendant's motion to revoke the detention order.

Respectfully submitted,

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By: /s/

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CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing with the Clerk of Court, using the CM/ECF system, which will send notification of such filing to all counsel of record, including counsel below:

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